IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 3623 of 2004(F)

AGAINST THE ORDER DATED 19/01/04 IN IA.1224/2003 IN OS.15/2003 of SUB COURT, CHERTHALA

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PETITIONERS:

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1. VISWAMBARAN P.T., PRESIDENT,
   SUBRAMANYA KSHETHRA DEVASWOM, AROOR VILLAGE,
   CHANDIROOR P.O., CHERTHALA.

2. PAVITHRAN, SECRETARY,
   SUBRAHMANYA KSHETHRA DEVASWOM, AROOR VILLAGE,
   CHANDIROOR P.O., CHERTHALA.

BY ADV. SRI.R.SANTHOSH BABU
SRI.K.K.MOIDEEN

RESPONDENTS:

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1. VELAYUDHAN S/O. MAKAYIRAN, KANCHALAYATHIL
   VEEDU, AROOR VILLAGE.

2. SASI S/O. KOCHAPPAN, KAITHAVALAPPIL
   VEDU, AROOR VILLAGE.

BY ADV. SRI.SHAJI THANKAPPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.3623/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF WRITTEN STATEMENT DT.14.9.03 SUBMITTED BY PETITIONERS IN O.S.15/03

EXT.P2 – TRUE COPY OF ORDER IN I.A.1224/03 IN O.S.15/03 OF SUB COURT, CHERTHALA DT.19.1.04.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.3623 OF 2004

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DATED THIS THE 25TH JUNE, 2007

J U D G M E N T

Having regard to the principles laid down by the Supreme Court in **Kailash v. Nanhku** (2005 (2) KLT 623), Ext.P2 order by which the written statement filed by the petitioners was rejected on the ground that the same was filed beyond 90 days of the petitioners receiving summons has to be set aside. Accordingly setting aside Ext.P2, I allow I.A.No.1224 of 2003 and direct the Subordinate Judge to receive the written statement filed by the petitioners on file and to formulate issues on the basis of the contentions raised therein. It is needless to mention that if, on the contentions raised, the question of maintainability arises, the learned Subordinate Judge will hear the parties on that question preliminarily and give an early decision.

The Writ Petition is allowed as above.

(PIUS C.KURIAKOSE, JUDGE)

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